

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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JOSHUA KISNER,

Plaintiff,

v.

5:13-CV-1325

BANK OF AMERICA,

Defendant.  
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THOMAS J. McAVOY  
Senior United States District Judge

**DECISION and ORDER**

This *pro se* action, brought pursuant to 42 U.S.C. § 1983, was referred by this Court to the Hon. Andrew T. Baxter, United States Magistrate Judge, for a Report and Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3(c).

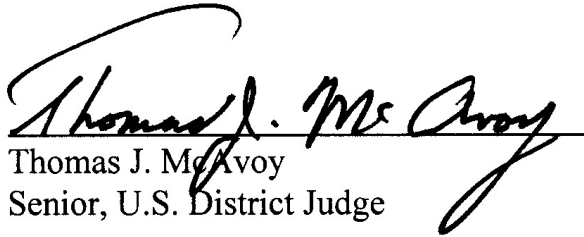
In his October 29, 2013, Report-Recommendation and Order, Magistrate Judge Baxter recommends that Plaintiff's complaint, dkt. # 1, be dismissed without prejudice pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) for failure to state a claim upon which relief may be granted. No objections to the Report-Recommendation and Order have been filed, and the time to do so has expired.

After examining the record, this Court has determined that the Report-Recommendation and Order is not subject to attack for plain error or manifest injustice.

Accordingly, the Court ADOPTS the Report-Recommendation and Order, dkt. # 5, for the reasons stated therein. Plaintiff's complaint is DISMISSED WITHOUT PREJUDICE.

IT IS SO ORDERED.

Dated: February 10, 2014



Thomas J. McAvoy  
Senior, U.S. District Judge